

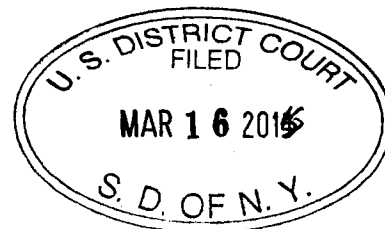
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ORIGINAL

Approved: _____

IAN MCINLEY

Assistant United States Attorney



Before: HONORABLE DEBRA C. FREEMAN
 United States Magistrate Judge
 Southern District of New York

DOC # 1

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UNITED STATES OF AMERICA :

COMPLAINT

- v. - :

Violation of
 18 U.S.C. § 39A

ELEHECER BALAGUER, :

Defendant. :

County of Offense:
 Bronx

- - - - - x

SOUTHERN DISTRICT OF NEW YORK, ss.:

SHAWN T. RUSSELL, being duly sworn, deposes and says that he is a Detective with the Port Authority of New York and New Jersey Police Department, assigned to the Federal Bureau of Investigation's Joint Terrorism Task Force ("JTTF"), and charges as follows:

COUNT ONE

On or about March 9, 2015, in the Southern District of New York and elsewhere, ELEHECER BALAGUER, the defendant, knowingly aimed the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, and at the flight path of such an aircraft, to wit, BALAGUER, while in the Bronx, New York, aimed the beam of a laser pointer at numerous airplanes arriving and departing LaGuardia Airport in Queens, New York.

(Title 18, United States Code, Section 39A.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

1. I have been a Detective assigned to the JTTF for approximately 10 years. I am currently assigned to the JTTF squad responsible for airport security in the New York City

area. I have personally participated in the investigation of this matter. This affidavit is based on my conversations with other law enforcement agents and persons, and my examination of reports, records, and documents. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

2. Based on my training and experience, I know that LaGuardia Airport ("LaGuardia") is an airport located in Queens, New York. LaGuardia has two runways, which are numbered in each direction, for arriving and departing airplanes. The two main runway directions are runways 22 and 31. LaGuardia is one of the busiest airports in the United States. In 2014, close to 27 million passengers used the airport. Attached as Exhibit A is a map of LaGuardia.

3. Based on my investigation, which has included interviewing witnesses, discussing this matter with other law enforcement officers, including officials from the New York City Police Department ("NYPD"), and reviewing documents, I have learned the following relating to events that occurred on March 9, 2015 near LaGuardia in Queens, New York, and in the Bronx, New York.

4. Based on my discussions with a pilot ("Pilot-1"), who operated a commercial flight that landed at LaGuardia on March 9, 2015 ("Flight-1"), I have learned that:

a. Flight-1 approached runway 22 at LaGuardia at approximately 8:05 p.m., on March 9, 2015.

b. As Flight-1 approached LaGuardia, at an altitude of approximately 4000 feet, a bright green beam of light shined into the cockpit of the plane twice. Pilot-1 saw the bright beam of light appear to track the flight pattern of the plane.

c. The bright green beam of light struck Pilot-1 directly in the eyes, causing Pilot-1 to temporarily lose focus on his flight controls.

d. The bright green beam of light appeared to originate from a location near the Hutchinson River Expressway in the Bronx, New York.

5. Based on my discussions with another pilot ("Pilot-2"), who assisted in the operation a commercial flight that landed at LaGuardia on March 9, 2015 ("Flight-2"), I have learned that:

a. Flight-2 approached runway 22 at LaGuardia at approximately 8:06 p.m., on or about March 9, 2015.

b. As Flight-2 approached LaGuardia, at an altitude of approximately 1200 feet, a bright green beam of light shined into the cockpit of the plane for approximately two seconds.

c. The bright green beam of light struck Pilot-2 directly in the eyes, causing Pilot-2 to temporarily lose sight, and leaving Pilot-2 with pain in his right eye and a headache.

d. The bright green beam of light appeared to originate from the right side of the plane, from the direction of the Bronx, New York.

6. Based on my discussions with another pilot ("Pilot-3"), who assisted in the operation of a commercial flight that departed LaGuardia on March 9, 2015 ("Flight-3"), I have learned that:

a. Flight-3 departed LaGuardia airport at approximately 8:52 p.m., on or about March 9, 2015, from runway 31.

b. When Flight-3 reached an estimated altitude of approximately 1500 feet, a bright green beam of light shined into the cockpit for about three to five seconds. The bright green beam struck Pilot-3 directly in the eyes, causing Pilot-3 to lose sight for approximately five seconds.

c. At the time that the bright green beam struck Pilot-3 in the eyes, Flight-3 was traveling over a location in the Bronx, New York.

7. Based on my discussions with an Air Traffic Controller (the "Air Traffic Controller") working at LaGuardia

and responsible for directing runway traffic in and out of the airport, I have learned that:

a. On the evening of March 9, 2015, the Air Traffic Controller received complaints from airline pilots about a laser beam being shined into the cockpits of their planes when departing from and arriving at LaGuardia. According to the pilots, the laser beam appeared to originate from a location in the Bronx, New York.

b. In response to these complaints, the Air Traffic Controller changed the runway directions used for all planes arriving at and departing LaGuardia, in an effort to have aircraft avoid the laser beam originating from the Bronx, New York.

8. Based on my discussions with two members of the NYPD's Aviation Unit ("Officer-1" and "Officer-2"), and my review of law enforcement reports, I have learned the following:

a. On the evening of March 9, 2015, the NYPD was notified that multiple pilots reported laser beams being shined at the aircraft when arriving and departing LaGuardia.

b. Officer-1 and Officer-2 flew an NYPD helicopter (the "Helicopter") in the vicinity of LaGuardia where these laser incidents had occurred.

c. At approximately 9:20 p.m., the Helicopter was struck by a bright green laser beam of light. The laser beam appeared to originate from a certain second floor apartment in a building in the Bronx, New York (the "Apartment").

d. The laser beam of light struck Officer-1 several times in both eyes, causing Officer-1 to lose sight for approximately three to five seconds. The laser beam also struck Officer-2 in both eyes, causing Officer-2 to temporarily lose sight.

9. At or around 9:37 p.m., on March 9, 2015, NYPD officers arrived at the Apartment. Based on my discussions with one of the NYPD officers who arrived at the Apartment that evening ("Officer -3") and my review of reports, I have learned that:

a. NYPD officers knocked on the door of the Apartment. A woman, who claimed to be the owner of the

apartment, answered the door and permitted the NYPD officers to enter the Apartment. At least three people appeared to live in the Apartment, but a certain man ("Individual-1") appeared to be the only person that had not been sleeping.

b. Inside the Apartment, law enforcement recovered a laser pointer (the "Laser Pointer") from on top of a refrigerator near the window where the bright green laser beam appeared to originate from. The laser pointer emitted a bright green light beam. On the Laser Pointer itself, the following warning is written in all capital letters, "DANGER - LASER RADIATION - AVOID DIRECT EYE EXPOSURE." A picture of the Laser Pointer is attached hereto as Exhibit B.

c. After being advised of his *Miranda* rights and waiving those rights, Individual-1 told law enforcement that ELEHECER BALAGUER, the defendant, owned the Laser Pointer, and that BALAGUER bought the laser pointer in Florida in January 2015. Individual-1 denied ever using the Laser Pointer.

d. BALAGUER was also interviewed by law enforcement. BALAGUER told law enforcement that he owned the Laser Pointer, which he purchased in Orlando, Florida for \$50. BALAGUER further stated that he only used the Laser Pointer indoors and never pointed the Laser Pointer outside. BALAGUER added that he was sleeping at the time law enforcement arrived at the Apartment, and that BALAGUER did not know who pointed the Laser Pointer out the window of the Apartment at the passing airplanes.

e. Individual-1 was arrested by the NYPD and scheduled to appear in Bronx County Criminal Court on or about March 13, 2015.

10. On March 13, 2015, I and other law enforcement officers attended Individual-1's appearance in Bronx Criminal Court. During this court appearance, ELEHECER BALAGUER, the defendant, arrived and stated, in substance and in part, that the Laser Pointer belonged to him, and that BALAGUER had pointed the Laser Pointer at an airplane on or about March 9, 2015.

11. On March 13, 2015, I and other law enforcement officers interviewed ELEHECER BALAGUER, the defendant, in the presence of his attorney. During this interview, BALAGUER stated the following, in substance and in part:

a. BALAGUER lives in the Apartment with three other people, including Individual-1.

b. BALAGUER bought the Laser Pointer, which emits green light, in Florida.

c. On March 9, 2015, BALAGUER was playing with the Laser Pointer, saw a plane, and pointed the Laser Pointer at the plane. BALAGUER subsequently heard a helicopter near the Apartment.

d. After using the Laser Pointer during the evening of March 9, 2015, BALAGUER placed the Laser Pointer on a refrigerator in the Apartment.

e. BALAGUER lied to law enforcement when he was interviewed on or about March 9, 2015.

f. Individual-1 did not use the Laser Pointer.

12. Earlier today, on March 16, 2015, ELEHECER BALAGUER, the defendant, surrendered to the custody of the Federal Bureau of Investigation in Manhattan.

WHEREFORE, deponent prays that ELEHECER BALAGUER, the defendant, be imprisoned or bailed, as the case may be.




SHAWN T. RUSSELL

Detective

Port Authority of New York and New Jersey

Sworn to before me this
16th day of March 2015



THE HONORABLE DEBRA Q. FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT A

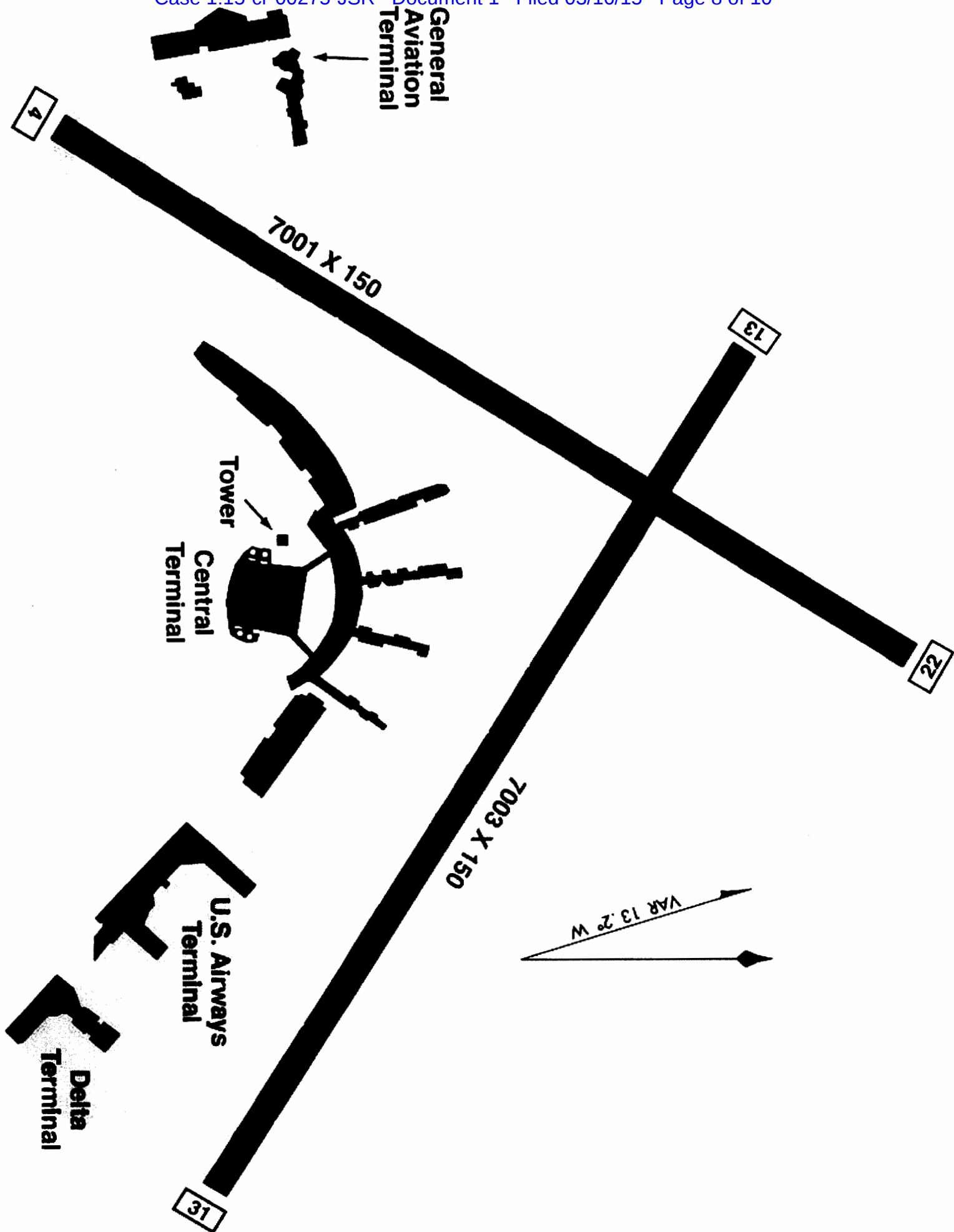


EXHIBIT B

NO EXPOSURE
LIGHT IS EMITTED FROM THIS APERTURE

DANGER

LASER RADIATION
AVOID DIRECT EYE EXPOSURE

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